

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PHILIP PIDOT, NANCY HAWKINS and STEVEN AXELMAN, individually and as representatives of eligible Republican Party voters in Suffolk, Nassau and Queens Counties within New York State's Third Congressional District,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	No. 16-cv-859 (FJS/CFH)
	:	
NEW YORK STATE BOARD OF ELECTIONS;	:	
SUFFOLK COUNTY BOARD OF ELECTIONS;	:	
NASSAU COUNTY BOARD OF ELECTIONS; BOARD	:	
OF ELECTIONS IN THE CITY OF NEW YORK;	:	
PETER KOSINSKI and DOUGLAS KELLNER, in their official capacities as Commissioners and Co-Chairs of the	:	
New York State Board of Elections; ANDREW J. SPANO	:	
and GREGORY P. PETERSON, in their official capacities	:	
as Commissioners of the New York State Board of	:	
Elections; TODD D. VALENTINE and ROBERT A.	:	
BREHM, in their official capacities as Executive Directors	:	
of the New York State Board of Elections; and JACK	:	
MARTINS.	:	
	:	
Defendants.	:	

DECLARATION OF PAUL DEROHANNESIAN II, ESQ.

Paul DerOhannesian II, Esq., an attorney duly admitted to practice law in the Courts of the State of New York and the United States District Court for the Northern District of New York, under penalty of perjury, do hereby declare:

1. I am a principal attorney at DerOhannesian & DerOhannesian, attorneys for Defendant Jack Martins, and am therefore fully familiar with the facts and circumstances therein. I

make this declaration in support of Defendant Martins' Cross-Motion pursuant to Federal Rule of Civil Procedure 12(b)(1) and/or 12(b)(6) and in Opposition to Plaintiffs' Motion for injunctive and equitable relief.

2. Attached as Exhibit A is a true and accurate copy of the submission of the New York City Board of Election, dated July 16, 2016, filed with the Second Department in the related state action.
3. Attached as Exhibit B is a true and accurate copy of the certified transcript of the New York State Board of Elections Commissioners' Meeting, which occurred on May 4, 2016.
4. Attached as Exhibit C is a true and accurate copy of an article entitled "Team Gallo Introduces City Council Slate" from the Glen Clove Record Pilot, dated June 27, 2015.
5. Attached as Exhibit D is a true and accurate copy of a fundraiser for Anthony Gallo, Jr., held on June 24, 2015.
6. Attached as Exhibit E is a true and accurate copy of the Certification for the June 28, 2016 Federal Primary Election produced by the New York State Board of Elections, dated June 2, 2016. The Certification can also be found on the website maintained by the New York State Board of Elections:
<http://www.elections.ny.gov/NYSBOE/download/law/Certification2016FedCongressionalPrimaryBallot.pdf>.
7. Attached as Exhibit F is a true and accurate copy of the Complaint filed by Plaintiffs Philip Pidot and Nancy Hawkins, dated June 27, 2016, in the Eastern District of New York, CV-16 3527.
8. Attached as Exhibit G is a true and accurate copy of portions of the transcript held before Supreme Court Justice Arthur Diamond on June 21, 22, and 23, 2016.

9. A timeline of the relevant events is below for the Court's convenience:

DATE	EVENT	SOURCE
4/14/16	Plaintiff Pidot files designating petition	Dkt. No. 1, ¶¶1, 23
4/25-26/16	Voters files objections to Plaintiff Pidot's designating petition	Dkt. No. 1, ¶24; Exhibit F, ¶25
5/2/16	The New York State Board Of Elections ("the Board") hearing on the objections to Plaintiff Pidot's designating petition	Exhibit G, p. 12
5/4/16	The Board invalidates Plaintiff Pidot's designating petitions	Dkt. No. 1, ¶25; Exhibit B, pp. 23, 32
5/6/16	Plaintiff Pidot files a validating proceeding in New York State Supreme Court	Dkt. No. 1, ¶26
5/11/16	New York Supreme Court Justice Adams dismisses the proceeding after finding that Plaintiff Pidot failed to properly commence his action	Dkt. No. 1, ¶28
5/13/16	UOCAVA deadline to mail military and overseas ballots for contests scheduled for the September primary	Dkt. No. 1, ¶27
5/18/16	Plaintiff Pidot files a motion to vacate Justice Adams' decision to dismiss	Dkt. No. 1, ¶30
6/7/16	Justice Adams denies motion to vacate	Dkt. No. 1, ¶30
6/9/16	Plaintiff Pidot files a notice of appeal to the Supreme Court of New York, Appellate Division, Second Judicial Department ("Second Department")	Exhibit F, ¶30
6/17/16	The Second Department reverses Justice Adams' order and remands for further proceedings	Dkt. No. 1, ¶31
6/21-23/16	New York Supreme Court Justice Arthur Diamond holds a hearing	Dkt. No. 1, ¶36
6/24/16	Justice Diamond finds Plaintiff Pidot obtained a sufficient number of signatures but that it would be "impossible" to place his name on the ballot and denies Plaintiff Pidot's request for a new primary	Dkt. No. 1-2; Dkt. No. 22-9
6/27/16	Plaintiffs Pidot and Nancy Hawkins file a <i>pro se</i> lawsuit in the Eastern District of New York	Dkt. No. 1, ¶40; Exhibit F
6/28/16	Primary Day	Dkt. No. 1, ¶1

7/5/16 Counsel for Plaintiffs Pidot and Hawkins appear in the Eastern Dkt. No. 22-4, p. 5 District case and move for a voluntary dismissal

7/6/16 Plaintiffs' motion for voluntary dismissal is granted Dkt. No. 22-4, p. 5

7/7/16 Plaintiff Pidot files a notice of appeal to the Second Department of Dkt. No. 22-7, p. 17 Justice Diamond's June 24, 2016 decision

7/13/16 Plaintiffs Pidot, Hawkins and Steven Axelman file the instant Dkt. No. 1 action in the Northern District of New York

7/21/16 The Second Department affirms Justice Diamond's June 24, 2016 Dkt. No. 22-9 decision

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Dated: August 5, 2016
Albany, New York

Respectfully submitted,

By: /s/ Paul DerOhannesian II
Paul DerOhannesian II (Bar Roll 104792)
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Attorneys for Defendant Jack Martins